



PATENT  
Attorney Docket No. P1326REI

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Thomas E. Loftus

Art Unit: 3671

Application No. 09/541,162

Examiner: Robert E. Pezzuto

Filed: March 31, 2000

For: Retrofit Chain Sickle Cutter

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RESPONSE TO OFFICE ACTION OF 30 AUGUST 2002

Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

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**GROUP 3600**

In response to the Office Action dated August 30, 2002, please consider the following remarks.

REMARKS

*I. Present Status of the Claims*

The pending claims 2-23 in the present reissue application stand rejected under the recapture doctrine.

The present application is a reissue of U.S. Patent No. 5,845,474 (App. No. 08/928,829) ("the '829 application"), which, in turn, is a continuation-in-part of U.S. Patent No. 5,732,539 (App. No. 08/641,505) ("the '505 application"). On June 17, 1997, during the prosecution of the '505 application, the applicant pointed out six reasons why the claims of the '505 application were different from the prior art. Independent claims 5 and 15 of the '505 application, which in part recited limitations with subject matter related to the six reasons, were allowed to issue as claims 1 and 11 of U.S. Patent No. 5,732,539. Claim 1 of the '829 application also recited limitations with subject matter similar to claim 5 of the '505 application; and claim 1 of the '829 application was allowed to issue as claim 1 of U.S. Patent No. 5,845,474.

The Office Action of August 30, 2002 concludes from these facts that, under the recapture doctrine, the applicant has surrendered all claims that lack at least one of the five limitations recited in claim 5 of the '505 application.<sup>1</sup> In addition, the Office Action

<sup>1</sup> As explained below, the applicant believes the rejection under the recapture doctrine to be improper. However, for the sake of argument, even if the rejection under the recapture doctrine were proper, the presently